IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 19144 of 2004

Between:

1. Gadeela Sanjeeva Reddy S/o Late G.Bagi Reddy,
2. Gadeela Pedda Narasimha Reddy S/o Late G.Rami Reddy,
3. Gadeela Penta Reddy S/o Late G.Narayana Reddy,
4. Gadeela Krishna Reddy s/o G.Raghava reddy,
5. Smt.Gadeela Venkata NarasammaW/oG.Ghennakeshava Reddy
6. Gadeela Chinna Narasimha Reddy S/o G.Balakrishna Reddy,
7. Gadeela Chandra Reddy S/o late G.Venkat Reddy,
8. Gadeela Ranga Reddy S/o G.Balakrishna Reddy,
9. Gadeela Prabhakara reddy S/o Late G.Narayana Reddy,
10. Venga Narasimha Reddy S/o Late V.Nagi Reddy,

All are R/o ChandupatLa Gudem Ghatkesar Mandal,
Ranga Reddy District

.....PETITIONERS

AND

1. Sri Balaji Venkateswara Swamy Temple,Venkatapuram Village,
Ghatkeswar (M)Rangareddy District. Rep.by its Manager.
2. The Assistant Commissioner of Endowments,
Rangareddy District.

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue, a writ, order or direction more particularly a writ in the nature of Writ of Mandamus declaring the action of the 1st respondent i.e., the Manager, Sri Balaji Venkateswara Swamy Devastanam, Venkatapuram Village, Ghatkesar Mandal, Ranga reddy District contemplating to hold public auction on 15/10/2004 of the lease-hold rights of lands situated in Chandupatlagudem village, Ghatkesar Mandal, Rangaredy District belonging to the 1st respondent temple in Survey nos. 204, 205, 206, 208, 209 and 210 wherein the petitioners 1 to 9 are holding an extent of Acs.0-35gts, each and the petitioner no.10 is holding an extent of

Ac.1-39 gts., in so far as bad, illegal, arbitrary and oppose to law.

Counsel for the Petitioners: MR.M.VIDYASAGAR

Counsel for the Respondent No.1: Mr Ravi Kondaveeti

Counsel for the Respondent No.2: G P FOR ENDOWMENTS

The Court made the following:

ORDER:

Admittedly the petitioners have been declared to be encroachers of the lands belonging to Sri Balaji Venkateswara Swamy Temple, Venkatapuram village, Ghatkesar Mandal, Ranga Reddy District, in view of the proceedings of the Deputy Commissioner of Endowments concerned dated 19-08-2004. However, they claim to be cultivating tenants of the lands of the Temple. They also claim to be landless poor persons and, thus, entitled to a preferential right to purchase the lands of the Temple at 75% of the prevailing market value in terms of Section 82 (2) of the Andhra Pradesh Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act'). Claiming the status of landless poor persons under the above legislative dispensation, they claim to have preferred applications to the Assistant Commissioner of Endowments. It is admitted at the bar now on behalf of the petitioners, that the claims of the petitioners have been rejected by the Assistant Commissioner of Endowments holding that the petitioners are not landless poor persons and that they have preferred an appeal to the Regional Joint Commissioner of Endowments. The proceedings of the Deputy Commissioner of Endowments dated 19.08.2004 has not been challenged. There is no pleading to this effect.

2. The writ petition has been filed challenging the notification issued by the second respondent dated 15-10-2004 published on 06-10-2004 proposing public auction of the leasehold rights of the specified lands of the first respondent Temple, contending that as the petitioners are long standing cultivating tenants and landless poor persons, they are entitled to the benefits under Section 82(2) of the Act.

3. This Court by an interim direction dated 14-10-2004 granted interim stay of auction pursuant to the auction notice
dated 06-10-2004 in so far as items 1 to 6 of the auction notice is concerned.

4. At the stage of consideration of an application filed by the first respondent Temple seeking vacation of the interim orders, this Court has taken up the writ petition itself as the issues involved fall within a narrow factual compass.

5 . As the petitioners have admittedly been declared as encroachers by the proceedings of the concerned Deputy Commissioner of Endowments dated 19-08-2004, as against which the petitioners do not assert to have preferred any appeal or revision, and as nothing is pleaded to the effect that the order of the Deputy Commissioner of Endowments dated 19-08-2004 has been interdicted by any appellate or revisional order or otherwise, the petitioners cannot legitimately claim to have been cultivating tenants of the first respondent Temple. If they are not cultivating tenants but are encroachers none of the benefits under Section 82(2) of the Act will enure to them even if they be considered in some future proceedings as landless poor persons. On its terms Section 82(2) of the Act does not confer benefit on every landless poor person. Landless poor persons who have been long term cultivating tenants are alone entitled to the benefits in Section 82(2) of the Act.

5. On the above analysis, the writ petition and the relief claimed therein are misconceived. The writ petition is accordingly dismissed.

15-12-2004

kvrm/glv

To

1. The Assistant Commissioner of Endowments,
Rangareddy District.

2. 2 CCs to GP for Endowments, High Court Buildings, Hyderabad

(OUT)

3. 2 CD copies.